

**TESTIMONY OF JOHN ROEBUCK, CAI, AARE, CHAIRMAN OF THE BOARD
OF THE NATIONAL AUCTIONEERS ASSOCIATION
BEFORE THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
OF THE HOUSE FINANCIAL SERVICES COMMITTEE May 2, 2001**

Chairman Bachus, members of the subcommittee, I am John Roebuck, Chairman of the Board of the National Auctioneers Association and President of John Roebuck and Associates of Memphis, TN. I am accompanied today by NAA's legislative consultant, Curtis Prins, a former staff director of this subcommittee, who is well known to many of you.

The National Auctioneers Association is strongly opposed to the proposed regulation issued by the Federal Reserve System and the Treasury Department that would allow banks to engage in real estate brokerage.

To illustrate NAA's deep concern about the proposal I should point out, that to my knowledge, this is the first time ever that my trade association has testified before Congress. We have not been here before because of our belief that we should not testify unless it was something of a life threatening nature to our industry. The proposed regulation will most assuredly cripple if not kill the real estate auction business as far as companies such as mine are concerned and that is why I am here today.

Many of NAA's 6,000 members conduct not only real estate auctions but also operate traditional real estate brokerage businesses. All of our members are small businesses in the true meaning of the word.

In our business we face competition from other auction firms and real estate companies. That competition comes from companies that do not hold an unfair competitive advantage. However, if the regulation goes into effect, our industry will be faced with a whole new area of competition from banks who will clearly hold an unfair competitive advantage.

Banks have access to customer deposits and cheap loans from the Federal Government and from other banks. Real estate auction companies do not. Banks have access to financial information and customer lists that they can use for marketing purposes. Real estate auction companies do not. Banks have the ability to attract customers with a variety of financial incentives. Real estate auctions companies do not.

Let me describe a scenario that may well develop if this regulation is adopted. A bank customer calls his bank to inquire about a mortgage loan for a new home he is purchasing. The banker wants to know if the customer is selling an existing home. When the answer is yes, the banker tells the customer that the bank will not only make the loan for the new home but will provide the financing at a lower rate if the banks gets to sell the existing home. How do I compete with that type of offer?

I know that the proposed regulation states that anti-tying regulation will prevent banks from forcing customers to accept certain products and services in order to obtain other products and services. First, let me ask, how often have the bank regulators enforced the anti-tying regulations? Even if bank customers know they are not required to buy certain products, they still buy the products, because they fear that they will be denied a loan if they don't. You only have to look at the penetration rate that banks have in selling credit life insurance in connection with loans to realize that, regulations or not, borrowers don't want to take a chance of losing a loan because they would not buy credit life.

While I can list numerous other reasons why banks will have an unfair advantage in competing for real estate brokerage business, including auctions, I want to spend my remaining time trying to understand how the Federal Reserve and Treasury were able to put forth such a regulation.

I am just a small businessman from Memphis, TN. and like the rest of the 6,000 members of NAA I am confused by the process that led to the real estate regulation.

I have great faith in the Members of Congress. They are elected by the people of their districts or state. They are accessible, concerned about their constituents' views and willing to listen, as witness this hearing. On the other hand, government agencies are not made up of a single elected person, have narrow if any constituencies and are hardly accessible. Certainly, the Fed and Treasury have asked for written comments about the proposed reg but that does not allow groups such as NAA to truly express their concern.

I know that the Gramm-Bliley-Leach Act gives the Fed and Treasury some latitude in determining what activities are permissible for bank holding companies and national banks. I will leave it to the legal minds to argue the technicalities of that grant. It is my belief that such authority was given only where narrow interpretations of the law were needed-not to write new legislation.

Perhaps the most significant question surrounding this whole issue is this. If Congress wanted banks to engage in real estate activities, why didn't it grant those powers, clearly and unmistakably? Surely, if Congress intended banks to have such powers, there would be no need for this hearing. There would be a clear record of Congress granting real estate powers to banks and probably even a recorded vote.

I ask this question of the two agencies. How many members of Congress have sent comment letters saying that Congress, in passing Gramm-Bliley-Leach, clearly intended banks to have real estate brokerage powers? On the other hand, Congress has voted several times against allowing banks into the real estate brokerage business.

Congress passed the Glass-Steagall Act in 1933, some 68 years ago. If it took that long for Congress to decide what businesses banks should be in, is it logical that Congress would take just over a year to hand over the authority to make legislative banking powers decisions to two un-elected agencies?

Mr. Chairman, I applaud you and other members of this subcommittee who have written to the two agencies to question their actions. In your letter you state, "far-reaching and controversial financial policies should be determined through legislation, not through regulation." Those 14 words are the clearest testimony that will be heard at this hearing.

One of the tenets of President Bush's administration is to return government to the people. I truly hope that happens. But when the people see government agencies legislate against a large segment of the people, then we must question if such a return is possible.

This regulation is not just to decide banking powers. It is far more than that. If this regulation is finalized, it will mean that Congress has given up its basic power to legislate in the area of banking. Is that what you really want to happen?

Thank you very much.